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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,397	02/11/2002	Alexander Aschir	112740-518	3844
29177	7590	10/14/2005	EXAMINER	
BELL, BOYD & LLOYD, LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			PHAN, HUY Q	
			ART UNIT	PAPER NUMBER
			2687	

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/049,397	ASCHIR ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Huy Q. Phan	2687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 August 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 9, 10, 17 and 18 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 9, 10, 17 and 18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                         |                                                                             |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.                                               |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                         | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/24/2005 has been entered.

### ***Response to Amendment***

2. This Office Action is in response to RCE and Amendment filed on date: 08/24/2005.

Claims 9, 10, 17 and 18 are still pending.

Claim 18 is newly added.

### ***Response to Arguments***

3. Applicant's arguments filed 08/24/2005 have been fully considered but they are not persuasive.

a) In response to Applicants' arguments with regard to the rejection of claim 9 under 35 U.S.C. 103(a) as being unpatentable over Salmela et al. (US-6,516,193) in view of Keller et al. (US-6,496,689).

Applicants stated "The cited art, alone or in combination, does not disclose "updating the position of the mobile communication terminal during the call, wherein the position update is SCP initiated and transmitted by a USSD request with time intervals of the update being service-specific" along with the related features recited in claim 9 and similarly recited in claim 18" (see remarks page 4); while Keller et al. clearly disclose "this inventive approach allows the retrieval of location information in all states of the mobile station MS, e.g., out of calling, during calling and so forth" (col. 7, lines 56-59), "FIG. 2 also shows an application where a network node sends an USSD-request to the mobile station MS. Here, the network node, e.g., the visitor location register VLR sends the request to the mobile station MS and awaits a response. The network node is responsible for controlling the USSD-request and therefore normally releases the application when it receives a response from the mobile station MS" (col. 8, lines 18-24) and "This allows the implementation of charging services using an exact location information. In particular, this local information unit 8 activates the unstructured supplementary service data interface unit 4 to transfer, e.g., the base station identity code BSIC via unstructured supplementary service data interface unit 4 to the network node carrying out the charging" (col. 7, lines 50-56).

b) Applicants argued that "the position update is not SCP initiated (i.e., from a network node), but is done through the mobile station" (see remarks page 4); while Keller et al. evidently teach "FIG. 2 shows the handling of network initiated USSD-notification. When an application in a network node, e.g., the home location register

HLR is to send an USSD-notification to a mobile station MS it sets up a dialogue to the mobile station MS and sends the notification to the mobile station MS. It then waits for a response. Here, the network node is responsible for controlling the USSD-dialogue and shall therefore release the dialogue when it receives a confirmation of the request from the mobile station MS." (see col. 8, lines 9-17).

c) Applicants argued that "Keller does not teach that the time interval are service-specific"; while Keller et al. particularly disclose "in FIG. 5a the charging unit 10-1, 10-2, 10-3, and 10-4 of at least one network node and the charging indication unit 6 at the mobile station MS exchange charging information at regular time intervals as unstructured supplementary data messages USSD. This embodiment leads to the further advantage that the overhead necessary to establish and release a USSD-dialogue may be avoided" (see col. 9, lines 28-39).

With all the reasons stated above, the rejection is deemed proper and still stands.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 10, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salmela et al. (US-6,516,193) in view of Keller et al. (US-6,496,689).

Regarding claims 9 and 18 [similarly recited (see remarks page 4)], Salmela et al. disclose a method for monitoring a position of a mobile communication terminal for location dependent telecommunication services (fig. 1 and its description) and an active voice connection (col. 12, lines 50-63), the method comprising the steps of:

obtaining, via a service control center (fig. 1 and col. 6, lines 36-64) in the mobile radio network, a first information item relating to the position of the mobile communication terminal within the mobile radio network from the mobile communication terminal when a connection for a call is set up (fig. 1, lines 50-54);

using the first position information item by selected location dependent telecommunication services (fig. 1, col. 12, lines 51-57);

updating the position of the mobile communication terminal during the call (col. 11, lines 4-19; also see fig. 1 and col. 12, line 44-col. 13, line 9);

using, by the service control center (fig. 1 and col. 6, lines 36-64), a change of position established during the call which has been set up to obtain a second position information item from the mobile communication terminal (col. 12, line 51-col. 13, line 9); and

using the second position information item by the telecommunication services (col. 13, lines 2-9);

wherein location information available in the mobile communication terminal is ascertained by an SIM tool kit available at the mobile communication terminal (col. 4, lines 29-65). But, Salmela et al. do not particularly show wherein the position update is SCP initiated and transmitted by a USSD request with time interval of the update being service-specific. However in analogous art, Keller et al. teach wherein the position update is SCP (network node) initiated (col. 5, lines 1-22; also see col. 8, lines 9-17) and transmitted by a USSD request (col. 8, lines 18-24) with time interval of the update (fig. 5 and col. 9, lines 27-38) being service-specific (col. 10, lines 1-7). Since, Salmela et al. and Keller et al. are related to the method of exchanging the unstructured supplementary service data (USSD) between the mobile station and the SCP in the wireless communication; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Salmela et al. as taught by Keller et al. for purpose of providing advantageously the needed information such as the service charges based on time-specific, location-specific and service-specific criteria of the user.

Regarding claim 10, Salmela et al. and Keller et al. disclose the method for monitoring a position of a mobile communication terminal as claimed in claim 9. Keller et al. further disclose the method comprising the steps of making billing for a telecommunication service dependent on the position information item for the mobile communication terminal to be billed (see fig. 3 and its description); and adjusting the

billing for the telecommunication service if a change in the position of the terminal is established ("change of charging information during call" see fig. 4 and its description).

Regarding claim 17, Salmela et al. and Keller et al. disclose the method for monitoring a position of a mobile communication terminal as claimed in claim 9. Salmela et al. further disclose the method comprising the step of transmitting a position information item by Short Message Service (col. 4, lines 35-45).

### ***Conclusion***

This is a continuation of applicant's earlier Application No. 10/049,397. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Q Phan whose telephone number is 571-272-7924. The examiner can normally be reached on 8AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kincaid G Lester can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Huy Phan

  
SONNY TRINH  
PRIMARY EXAMINER

Examiner: Phan, Huy Q.

AU: 2687

Date: 10/07/2005